THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.23002 of 2006

Dated: 15.02.2007

Between:

Siddeshuni Ravi Kumar and others.

..... PETITIONERS

AND

The Government of Andhra Pradesh, rep. by its Principal Secretary, Endowments Dept., Hyderabad, and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.23002 of 2006

ORDER:

The petitioners are Archakas of Sri Siddeswara Swami Temple, Hanamkonda, Warangal District. They allege that they are hereditary trustees of the temple. According to them, the temple was established by a religious denomination 'Veera shaiva Jangam – Lingayath' and that their ancestors were managing the temple since times immemorial. The temple is allegedly having land to an extent of Acs.4.00 and adjacent to temple there is a burial ground as alleged by them. There is a dispute between the petitioners and the authorities of the Endowments with regard to this land in the matter of grant of patta under the Andhra Pradesh (Telangana Area) Abolition of Inams Act, 1955. Be that as it is, fourth respondent by proceedings dated 19.09.2006 appointed respondents 6 to 10[1] as nonhereditary trustees. The petitioners assail the said order in this writ petition as being contrary to the provisions of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (the Act, for brevity).

A counter-affidavit has been filed by fourth respondent and also by fifth respondent. Fourth respondent alleges that being Archakas, the petitioners are not qualified for being appointed as trustees of the temple under Section 19(1)(g) of the Act. The answering respondent issued notice under Section 17(3) of the Act calling for applications from the interested persons and following due procedure issued the impugned order. The petitioners did not submit any applications. The allegation that fifth respondent temple is a religious denomination temple is denied stating that the temple was approved and registered under Section 43 of the Act. The petitioners were never granted ryotwari pattas and they were never recognized as hereditary trustees by the Deputy Commissioner of Endowments Department. All other allegations made by the petitioners are denied. The counter-affidavit filed by the chairman of the Trust Board on behalf of fifth respondent is also on similar lines.

The learned counsel for the petitioners submits that the petitioners are hereditary trustees belonging to a religious denomination temple and therefore, disqualifications under Section 19(1)(g) of the Act are not attracted. Secondly he submits that the temple belongs to Veerashaiva Jangam-Lingayath and therefore, appointment of Trust Board is illegal. He has taken this Court through the registration particulars of fifth respondent under Section 38 of the Act 17 of 1966 (which has been repealed by Act of 1987).

The learned Assistant Government Pleader for Endowments and the learned standing counsel for fifth respondent submits that Archakas incur disqualification under Section 19(1)(g) of the Act for being appointed as trustees, that the petitioners have not made any applications pursuant to the notice issued by fourth respondent and that the petitioners have no *locus standi* to file the writ petition. They also pointed out that if the petitioners are

aggrieved by the orders of fourth respondent appointing respondents 6 to 10 as nonhereditary trustees, they have an effective alternative remedy by way of revision under Section 92 of the Act.

The petitioners have not placed any material much less a declaration by a Court that Sri Siddeswara Swami Temple is a temple exclusively belonging to Veera shaiva Jangam – Lingayath nor any material in proof of their allegation that Veera shaiva Jangam – Lingayath is a religious denomination. The petitioners have also not placed any material like proper proceedings of the Deputy Commissioner issued under Section 87(1)(h) of the Act declaring them or any of them as members of the founder's family or any document in proof of the allegation that their ancestors founded the temple. In the absence of these particulars it is rather difficult to hold these two issues in favour of the petitioners. Indeed as rightly pointed out by the learned Assistant Government Pleader and the learned standing counsel for fifth respondent the registration particulars of fifth respondent temple under the provisions of Section 38 of the Act 17 of 1966 would show that the father of the petitioners late Samba Siddaiah, *pujari*, who signed the form at the time of registration of the temple has described himself as *pujari* in every page of the document and he never claimed to be the member of the founder's trustee. In para 3 of the affidavit filed by first petitioner in support of the writ petition, there is a clear admission that the temple is being managed by Veera shaiva Jangam – Lingayath community and that they are performing Archakathvam of the temple. This would certainly belie the contention of the petitioners.

Section 19 of the Act prescribes disqualifications for trusteeship. *Inter alia*, it provides that a person shall be disqualified for being appointed as trustee of a religious institution, if he is an officeholder or servant attached to a religious institution. Section 2 (15) of the Act defines 'Hereditary Officeholder' mean any officer including Pedda Jeeyangar, China Jeeyanagar, a Mirasidar and an Archaka of a charitable or a religious institution. Therefore, the petitioners being officeholders of fifth respondent temple incur disqualification and they cannot be considered for being appointed as nonhereditary trustees of the trust board. Secondly, the petitioners admittedly did not make any applications after issue of notification/notice by fourth respondent inviting applications for being appointed as trustees. In this context, the submission of the learned counsel for the petitioners that when appointment is made to a religious denomination temple, disqualification under Section 19(1) of the Act is not attracted is wholly misconceived. Section 17(1) of the Act only obliges the competent authority to have due regard to religious denomination while making appointment of trustees under Section 15 of the Act. The provision of Section 17(1) of the Act does not render Section 19(1) of the Act inapplicable in the matter of appointment of trustees. The petitioners have not availed the remedy under Section 92 of the Act by filing a revision before the jurisdictional regional Joint Commissioner. This is also one of the

defects in this writ petition. If so advised, it shall be open to the petitioners to seek alternative remedy under Section 92 of the Act, in which event the competent authority shall decide the matter without being influenced by this order.

The writ petition, with the above observations, is accordingly dismissed. No costs.

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(**V.V.S.RAO, J**)

15th February, 2007
ghn

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[1] Respondents 6 to 10 were impleaded by order dated 08.02.2007 in W.P.M.P.No.2796 of 2007